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[LTO EIS Overview Remand Update 062415.pdf](#)  
[LTOADEIS Ch 3 Desc Alts 062915.docx](#)

Hello all,

I received the Admin Draft of the Coordinated Long Term Operations of the CVP and the SWP- abbreviated OCAP- on June 30th. Cooperating agency comments are due **July 13**. I wanted to summarize some of the main points here. Sorry it's long but it can't be avoided because I want to be precise on the legal issues. My EPA issue list is at the bottom. I can think of a few comments to craft that we could send over by Friday, suggestions and input welcome. The document is due out for **public review on July 31 and ROD is scheduled by 12/1/15 to comply with a court order**.

To comply with the District Court's 2010 orders regarding NEPA, Reclamation initiated preparation of an EIS in 2011 addressing both the USFWS and NMFS RPAs. The EIS documents Reclamation's analysis of the effects of modifications to the coordinated long-term operation of the CVP and SWP that are likely to avoid jeopardy to listed species and destruction or adverse modification of designated critical habitat.

**Purpose of the Action:** The purpose of the action considered in this EIS is to continue the operation of the CVP, in coordination with operation of the SWP, for the authorized purposes, in a manner that:

- Is similar to historic operational parameters with certain modifications;
- Is consistent with Federal Reclamation law; other Federal laws and regulations; Federal permits and licenses; State of California water rights, permits, and licenses; and
- Enables Reclamation and the DWR to satisfy their contractual obligations to the fullest extent possible.

**Need for the Action:** Continued operation of the CVP is needed to provide river regulation, improvement of navigation; flood control; water supply for irrigation and domestic uses; fish and wildlife mitigation, protection, and restoration; fish and wildlife enhancement; and power generation. The CVP and the SWP facilities also are operated to provide recreation benefits and in accordance with the water rights and water quality requirements adopted by the SWRCB.

FWS and NMFS concluded in their 2008 and 2009 biological opinions, respectively, that coordinated long-term operation of the CVP and SWP, as described in the 2008 Reclamation Biological Assessment, jeopardizes the continued existences of listed species and adversely modifies critical habitat. To remedy this, USFWS and NMFS provided Reasonable and Prudent Alternatives (RPAs) in their BOs.

The United States Court of Appeals for the Ninth Circuit (Appellate Court) confirmed the United States District Court for the Eastern District of California (District Court) ruling that Reclamation must conduct a NEPA review to determine whether the RPA actions cause a significant effect to the human environment. Potential modifications to the coordinated operation of the CVP and SWP analyzed in the EIS process should be consistent with the intended purpose of the action, within the scope of Reclamation's legal authority and jurisdiction, economically and technologically feasible, and avoid the likelihood of jeopardizing listed species or resulting in the destruction or adverse modification of critical habitat in compliance with the requirements of section 7(a)(2) of the Endangered Species Act.

**No Action Alternative:** For this EIS, the No Action Alternative consists of the coordinated long-term operation of the CVP and SWP, including full implementation of the RPAs in the 2008 USFWS BO and 2009 NMFS BO because Reclamation provisionally accepted the BOs in 2008 and 2009, respectively, and is implementing the RPAs. The No Action Alternative also includes changes not related to the long-term operation of the CVP and SWP or implementation of the RPAs in the 2008 USFWS BO and 2009 NMFS BO, as described in subsequent sections of this chapter. Because the RPAs were provisionally accepted and the No Action Alternative represents a continuation of existing policy and management direction, the No Action Alternative includes the RPAs. However, in response to scoping comments and subsequent comments from stakeholders and interest groups; and to provide a basis for comparison of the effects of implementation of the RPAs (per the District Court's mandate), this EIS includes a "Second Basis of Comparison" that represents a condition in 2030 without implementation of the 2008 USFWS BO and 2009 NMFS BO. All of the alternatives will be compared to the No Action Alternative and to the Second Basis of Comparison to describe the effects that could occur by 2030 under both bases of comparison.

Several of the 2009 NMFS BO RPA actions had been initiated prior to issuance of the 2009 NMFS BO; and therefore, those actions are included in the Second Basis of Comparison, as described below. Reasonably foreseeable actions included in the No Action Alternative that are not related to the 2008 USFWS BO or 2009 NMFS BO are also included in the Second Basis of Comparison.

**Preferred Alternative:** This Draft EIS does not recommend a preferred alternative. The recommendations will be included in the Record of Decision developed by Reclamation following completion of the EIS.

**Other Alternatives:** Alternative 1 is not implementing the BOs. Alternative 2 would not include actions in the 2008 USFWS BO and 2009 NMFS BO that have not been fully defined at this time (e.g. ecosystem restoration on the Stan), Alternative 3 is not implementing the BOs except for OMR and would include non-operational actions such as predation control and trap and haul fish passage, Alternative 4 is same as 3 and also ocean harvest limits revisions, and Alternative 5 is similar to No Action except with a Delta Cross Channel Operations pilot study and positive OMR in April and May.

**Issues for EPA:**

-What's its relation to the BDCP/WaterFix? The BDCP is described in generic terms in the cumulative impacts section but I haven't found anything more. For example, BDCP assumes in their baseline conditions that "most" of the No Action above gets implemented. So if they don't choose the NAA, then every single model run for the BDCP is incorrect, in fact it's wrong even if they choose the NAA anyway (but that's BDCP's problem). It is a bit weird to think about.

-I think we want to encourage they pursue the no action and do what NMFS and USFWS have been telling them to do for almost a decade. We definitely want to encourage them to identify a Preferred Alternative, otherwise, we would have to rate the others as well, and not implementing the BOs would likely get an adverse rating!!

-I'm curious if I dig further and if implementing the BOs shows positive impacts for fish species. I probably won't have time to dig too deeply. Everything is described qualitatively anyway.

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